

Opinion”) (Report of David Southwell, ECF No. 109, Ex. B, at 20.) As written, he stated a manufacturing defect. However, when asked about this opinion during his deposition, Southwell could not commit as to whether he considered this to be a design defect or a manufacturing defect. (Tr. 3.28.19 Deposition of David Southwell (“Southwell Dep.”), attached as Exhibit B, at 16:10–20:6.) Subsequent to his deposition, Southwell then submitted a “supplemental” report which appears to state that his Belt Alignment Opinion regards a human error/manufacturing defect, rather than a design defect. (Southwell Supplemental Report, attached as Exhibit A, at 2-3.)

Due to the potential ambiguity, to the extent Southwell takes the position that his Belt Alignment Opinion is one of design, rather than one of manufacturing, Goodyear asks that the Court issue an order to exclude all evidence regarding manufacturing practices at the Gadsden, Alabama plant as those manufacturing practices have no bearing on the design of the Tire at Issue. As such, any such evidence would fail the admissibility standards of Rules 401, 402 and 403.

Alternatively, to the extent Southwell takes the position that his Belt Alignment Opinion is a manufacturing defect opinion, Goodyear asks that the Court issue an order limiting all evidence, testimony, argument, comment or innuendo regarding manufacturing practices and conditions at the Gadsden plant specifically to only those practices directly performed for belt alignment. No testimony, evidence or argument regarding any other plant conditions or manufacturing practices at the Gadsden plant are germane to Southwell’s belt alignment opinion, and their injection into this trial would fail the admissibility standards of Rules 401, 402 and 403.

CONCLUSION

Because the foregoing subjects are irrelevant, confusing and prejudicial, for each of the foregoing reasons, Goodyear requests that this Court enter an order precluding Plaintiffs from introducing evidence of, and from making any comment, reference, argument or innuendo regarding

these immaterial plant practices and conditions, or, in the alternative, limiting all evidence, testimony, argument, comment or innuendo regarding manufacturing practices and conditions at the Gadsden plant specifically to only those practices directly performed for belt alignment.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with NECivR 7.1(d)(3) and further certify that the word count function was applied to include all text, including the caption, headings, footnotes, and quotations. This document was prepared using Microsoft Word 2010 and contains 793 words.

_____/s/ Edward S. Bott, Jr.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed with the Clerk of the Court and served upon all attorneys of record using the CM/ECF system this 4th day of February, 2020.

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